

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 EB-08 TRSE-00 ACDA-12 OES-09
CIAE-00 DODE-00 PM-05 H-01 INR-10 L-03 NSAE-00
NSC-05 PA-01 SP-02 SS-15 ICA-11 AID-05 FRB-03
XMB-02 OPIC-03 LAB-04 SIL-01 OMB-01 /112 W
-----044825 311450Z /44

P R 311401Z AUG KEI
FM AMEMBASSY KUWAIT
TO SECSTATE WASHDC PRIORITY 1734
INFO AMEMBASSY ABU DHABI
AMCONSUL ALEXANDRIA
AMEMBASSY AMMAN
/USINT BAGHDAD
/AMEMBASSY CAIRO 2023
AMEMBASSY DAMASCUS
AMEMBASSY JIDDA
AMCONSUL DHAHRAMN
AMEMBASSY MANAMA
AMEMBASSY MUSCAT
AMEMBASSY SANA
AMEMBASSY TEL AVIV
AMEMBASSY TRIPOLI
USDOC WASHDC

C O N F I D E N T I A L KUWAIT 4833

E.R. 11652: GDS
TAGS: ETRD, KU
SUBJ: GOK DRAMATICALLY ALTERS BOYCOTT REGULATIONS

REF: (A) KUWAIT 4562, (B) KUWAIT 4398, (C) STATE 103580.

1. GOVERNMENT OF KUWAIT AUGUST 30 APPROVED RECOMMENDATIONS BY
EPEICAL LEGAL ADVISERS COMMITTEE ALTERING REGULATIONS GOVERNING
APPLICATION IN KUWAIT OF THE BOYCOTT OF ISRAEL LAW. DECISION
EXPRESSLY ACKNOWLEDGES THAT CHANGES TO BE IMPLEMENTED DO
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NOT AFFECT LAW ITSELF BUT ARE DESIGNED TO ELIMINATE USE OF
BOYCOTT LANGUAGE WHICH WOULD BRING AMERICAN BUSINESSES INTO
VIOLATION OF ANTI-BOYCOTT PROVISINS OF THE EXPORT ADMINISTRATION

ACT.

2. FORMAL TEXT OF DECISION HAS NOT YET BEEN ISSUED, BUT FOLLOWING ANALYSIS IS BASED ON INFORMAL TRANSLATION OF TEXT OF RECOMMENDATIONS TO COUNCIL OF MINISTERS BY THE SPECIAL COMMITTEE WHICH AUG. 31 PRESS CONFIRMED BY TAREQ RAZZOUKI, CHIEF OF LEGAL DEPT. AT MFA, STATES WERE APPROVED IN TOTO BY COUNCIL OF MINISTERS.

3. LETTERS OF CREDIT: BANKS WILL BE EXPRESSLY PERMITTED TO CALL FOR POSITIVE CERTIFICATES OF ORIGIN FROM SUPPLIERS. FURTHER, THE LOCAL BANK, CHECKING DIRECTLY WITH THE BOYCOTT OFFICE, WILL BE EXPECTED TO VERIFY THAT THE INTENDED BENEFICIARY IS NOT BLACKLISTED. ASSUMING THESE TWO CHANGES WILL BE FULLY IMPLEMENTED, THIS SHOULD ENABLE AMERICAN CORRESPONDENT BANKS TO PROCESS KUWAITI L/C'S WITHIN THE EAA.

4. SHIPPING DOCUMENTS: TEXT OF DECISION IN THIS RESPECT IS UNCLEAR AND MUST AWAIT FURTHER INVESTIGATION AFTER IMPENDING PROTRACTED EID HOLIDAY. HOWEVER, IT CALLS FOR DELETION OF ALL MENTION OF "BLACKLISTED VESSELS" AND SUBSTITUTION OF LANGUAGE SIMILAR TO SAUDI PROPOSAL, I.E., "PERMITTED TO BERTH AT KUWAITI PORTS." TEXT EMBASSY HAS NOTES THAT THIS LANGUAGE MAY NOT BE ACCEPTABLE UNDER US LAW "UNLESS THIS GUARANTEE CAN BE TAKEN FROM THE OWNER, MASTER OR CHARTERER OF THE VESSEL." IF IN PRACTICE SHIPPING DOCUMENTATION REQUIRED BY GOK ADOPTS ONLY THIS LATTER LANGUAGE, IT WOULD APPEAR UNACCEPTABLE UNDER US LAW.

5. TENDER DOCUMENTS: GOVERNMENT DECISION APPARENTLY CALLS FOR CONFIDENTIAL

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REFERENCES TO THE BOYCOTT TO BE DELETED FROM INVITATIONS TO TENDER. GOVERNMENT AGENCIES CALLING FOR TENDERS SHOULD CONTACT THE BOYCOTT OFFICE DIRECTLY TO ASCERTAIN THAT COMPANIES BIDDING ARE NOT BLACKLISTED. UNDER THE DECISION, COMPANIES FINALLY SELECTED FOR CONTRACT MAY AT THE CONTRACTING AGENCY'S OPTION EITHER PRESENT A CERTIFICATE THAT THEY ARE NOT BLACKLISTED OR MAY BE EXCUSED FROM CERTIFYING ON THE BASIS THAT THE GOK AGENCY HAS CONDUCTED ITS OWN CHECK WITH THE BOYCOTT OFFICE. ACTUAL CONTRACTS ARE TO DEAL WITH THE ISSUE OF BLACKLISTED COMPANIES, BY THE USE ONLY OF GENERAL LANGUAGE TO THE EFFECT THAT "THIS CONTRACT IS ISSUED IN KUWAIT AND IS SUBJECT TO THE RULES AND REGULATIONS OF KUWAIT." WE WILL WISH TO OBTAIN AUTHORITATIVE INTERPRETATION OF THIS PROVISION OF THE NEW GOK DECISION WHEN WE CAN, BUT IT LOOKS AS IF GOK MAY HAVE ELIMINATED A MAJOR OBSTACLE TO PARTICIPATION BY US FIRMS IN KUWAITI PROJECT TENDERS.

6. COMMENT: THIS GOK DECISION HAS BEEN ISSUED AT THE LAST MOMENT PRIOR TO EXTENDED KUWAIT, AND ARAB WORLD, HOLIDAY, QUITE LIKELY IN A MOVE TO ATTENUATE AND SOFTEN HOSTILE CRITICISM OF WHAT SOME OBSERVERS ARE BOUND TO CONSTRUCT AS KUWAITI SUBSERVIENT TO THE US OR SOFTNESS TOWARD THE ISRAELI ENEMY. THE DECISION IS

THE WORK NOT ONLY OF MONTHS OF FRUSTRATING REPRESENTATION AND ARGUMENTATION BY THIS EMBASSY, BUT ALSO OF ABLE AND COURAGEOUS KUWAITI LEGAL ADVISERS WORKING TO APPLY COMMON SENSE TO THE SOLUTION OF BILATERAL TRADE PROBLEMS WITHOUT IN ANY WAY VIOLATING THE TERMS OF THE OVERALL ARAB BOYCOTT OF ISRAEL. AT THE VERY LEAST, THE DECISION SHOULD TAKE KUWAIT OUT OF THE HARDLINERS CORNER WHERE IT HAS BEEN ELBOWING IRAQ AND LIBYA. WHILE AS STATED ABOVE WE WOULD PREFER TO LEAVE THE CHAMPAGNE CORKED UNTIL WE CAN GET A MORE DEFINITIVE READING ON THE TEXT AND HOW IT WILL BE IMPLEMENTED, WE ARE PERMITTING OURSELVES SOME INTRAMURAL CONGRATULATIONS. MFA'S TAREQ RAZZOUKI, WHO HAS BEEN A KEY MOVER IN PRESENTING THE RECOMMENDATIONS APPROVED YESTERDAY BY THE COUNCIL, TOLD COUNSELOR AUG. 31 THAT HE WAS DELIGHTED WITH OUTCOME AND HOPEFUL THAT NEWLY APPROVED LANGUAGE CHANGES WOULD MEET THE NEEDS OF AMERICAN GOVERNMENT AND BUSINESS.
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MAESTRONE

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NNN

*** Current Handling Restrictions *** n/a

*** Current Classification *** CONFIDENTIAL

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